

MANDAMUS WAS REFUSED

THE SUPREME COURT DECLINED TO ISSUE WRIT IN TWO CASES.

One of Them Pertained to the Alleged Rights of the State to Minerals.

Austin, Texas, April 29.—The supreme court today turned down two motions to the petitions for writs of mandamus. The first was that of Amasa B. Chapell, who was out on the proposition that the oil in the sand banks of East Texas was entitled to the sole and undivided right and title to the products of the same. The court's opinion in the matter is as follows:

"This is a motion to allow a petition for a writ of mandamus, and we are of the opinion that it should be denied."

The petition alleges that the relator has made application to the respondent as commissioner of the general land office to purchase, under the provisions of article 89 of the Revised Statutes, a certain tract of school land, and oil lands, and acts forth specifically and in detail that in making his application he has pursued the requirements of law so that he has purchased the oil lands as school lands. It is further averred in substance that the section had previously been classified as grazing lands and that in 1890 one J. R. Sparks had made application to the respondent as commissioner of the general land office to purchase a certain tract of school land and oil lands and acts forth specifically and in detail that in making his application he has pursued the requirements of law so that he has purchased the oil lands as school lands. It is further averred in substance that the section had previously been classified as grazing lands and that in 1890 one J. R. Sparks had made application to the respondent as commissioner of the general land office to purchase a certain tract of school land and oil lands and acts forth specifically and in detail that in making his application he has pursued the requirements of law so that he has purchased the oil lands as school lands. The prayer of the petition is in substance that the respondent be commanded to accept the relator's offer and to withdraw the same from the records. It is not made a party to the proceedings.

"At an early day it was decided by this court that a writ of mandamus would not be issued in cases where the commissioners of the general land office have a patent where it appeared that there were adverse claimants to the land who were not made parties to the suit, and the commissioners of the general land office were not made parties to the suit. For the reason that Sparks was not made a party the motion to file the petition is denied."

"The relator may amend his petition and make Sparks a party to the proceeding. He should not, however, do so, as the relator's argument and the question of authority upon this question whether in a proceeding of this character you can determine the rights of third parties, there is an adverse claimant to the land."

"H. B. Gaines, Chief Justice."

The second application refused was that in the case of the State of Texas vs. H. C. Fisher et al., where it was sought to compel a justice of the peace to file a petition to certify a dissent in the cause of law decided in that court in which the relator was applicant and the Austin and Northwestern Oil Company was defendant.

The judgment of the court in this case, that the judgment was affirmed, that one of the judges dissented from the conclusion upon which the attorney general was based, and that certain other judges concurred in the same to the question of dissent.

"Article 480 of the Revised Statutes reads as follows: 'When any one or said court or judge shall have made a final judgment or proceeding reaches a decision in which any one of the judges therein sitting shall dissent in any one or more of the causes before him, the said one or more judges shall enter the grounds of their dissent in the record, and the said court or said appeals shall, upon motion of the party to the cause, or by its own motion, certify the point of dissent or dissenting judgment to the court. Whether or not it is the duty of the court to certify the point of dissent or not, and if it is necessary to decide. For the reasons given in the opinion of the court, that it is. The point of dissent may damage with not be issued where the party complaining has another plain, adequate and sufficient remedy at law or in equity, law, State vs. Morris, 87 Texas, 90, and case cited; Arkansas Building and Loan Association vs. Mathews, 88 Texas, 303; Association vs. Mathews, 89 Texas, 303; Association vs. Mathews, 90 Texas, 303; Association vs. Mathews, 91 Texas, 303; Association vs. Mathews, 92 Texas, 303; Association vs. Mathews, 93 Texas, 303; Association vs. Mathews, 94 Texas, 303; Association vs. Mathews, 95 Texas, 303; Association vs. Mathews, 96 Texas, 303; Association vs. Mathews, 97 Texas, 303; Association vs. Mathews, 98 Texas, 303; Association vs. Mathews, 99 Texas, 303; Association vs. Mathews, 100 Texas, 303; Association vs. Mathews, 101 Texas, 303; Association vs. Mathews, 102 Texas, 303; Association vs. Mathews, 103 Texas, 303; Association vs. Mathews, 104 Texas, 303; Association vs. Mathews, 105 Texas, 303; Association vs. Mathews, 106 Texas, 303; Association vs. Mathews, 107 Texas, 303; 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